IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No.6682 of 2003

Smt.Sakkhubai Maddhav Dhamale ..Petitioner

vs.

1. Mr.Laxman Bhaurao Garud
and others ..Respondents

Shri S.N.Chandrachud for petitiokner.
Shri M.B.Shah for respondent no.1.
Shri R.M.Patne, A.G.P. for respondent nos. 2 and 3

CORAM: S.B.MHASE J.
19th April, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. The order dated 21st July, 2000 passed by the Extra Joint District Judge, Pune in Land Reference No.164 of 1999 is under challenge. By the said order SLAO (14), Pune and Smt.Sakhubai M.Dhamale, the present petitioner, were directed to deposit the amount of compensation of Rs.8.19 lacs in the District Court on or before 31st August, 2000.

3. Land Reference No.164 of 1999 is pending before the Extra Joint District Judge, Pune under sec.30 of the Land Acquisition Act and it is the dispute in respect of apportionment of the amount of compensation awarded in the land acquisition proceedings. Whenever reference is required to be made under sec.30 of the Land Acquisition Act, the Land Acquisition Officer is under obligation to

deposit the amount of compensation in Court along with the reference. However, in the present matter, inspite of objections raised by the respondents being on record and specific prayer of making a reference under sec.38 was being pending, the Land Acquisition Officer rejected that application and made the payment of compensation amount in favour of the present petitioner. However, the respondents approached this Court challenging the order of the Land Acquisition Officer refusing to make reference under sec.30. That petition was allowed and, therefore, the SLAO was constrained to refer the matter under sec.30. However, as prior to making a reference the amount was disbursed by the SLAO in favour of the petitioner. The Extra Joint District Judge, Pune after hearing the parties directed the SLAO and the petitioner to deposit the amount in Court. The course adopted by the Extra Joint District Judge is in accordance with law and no interference in the order is required.

4. However, it is to be noted that initially the order dated 21st July, 2000 was challenged by the present petitioner by filing Civil Revision Application No.1058 of 2000 in this Court. In the said Civil Revision Application initially order was passed granting rule and further interim order was passed in terms of prayer clause (d) subject to condition that within 3 weeks from the date of the order the petitioner shall furnish the bank guarantee for the amount of Rs.8.50 lacs to the satisfaction of the Extra Joint District Judge, Pune and

shall submit undertaking before the said Court undertaking therein to pay interest on the amount withdrawn by the petitioner within such time as may be directed by the Reference Court. If Bank Guarantee is not furnished during the aforesaid time interim order shall automatically cease to operate. The learned counsel for the petitioner states the bank guarantee papers were prepared and submitted to the District Court. However, they were not accepted since the above referred interim order passed by this Court was not received by the District Court and the Bank Guarantee is lying with the District Court without being accepted by the District Judge as directed by this Court. It is further reported that the said Revision Application No.1058 of 2000 was dismissed along with other revision applications. After disposal of the said revision application the present petition challenging the said order is filed. I find that in the present petition as observed earlier there is no merit and, therefore, present petition is hereby rejected. It is to be noted that after dismissal of revision petition, this petition was not maintainable. Attempt made by counsel for the petitioners to impress upon the Court that revision is converted to writ petition is found to be improper since in fact there is no such order passed by the Court.

5. Learned counsel for the petitioner states that the amount which is to be deposited in the Court has been deposited by the petitioner with the Bank in order to

avail the facility of Bank Guarantee and since the Bank Guarantee is in the name of the District Judge, now he cannot deposit the amount. Under these circumstances, this court finds that had the bank guarantee been accepted by the District Court it would have been possible for the District Court to encash the Bank guarantee. However, since the said bank guarantee was not accepted by the District Court and simply the papers are tendered to the District Court thereby it cannot be said that the Bank guarantee was accepted by the District Court. I further find that revision application in which interim orders were passed in view of which the bank guarantee was tendered is also dismissed and thereby those interim orders are no more in existence. In the result, there is no question on the part of the District Court to accept the said bank guarantee. Under these circumstances, the District Court is directed to return the bank guarantee papers to the petitioner and the petitioner is hereby directed to deposit the amount of Rs.8.19 lacs along with the interest accrued on the said amount in the District Court within a period of two weeks from today. Since simply bank guarantee papers were prepared by the petitioner which were not accepted by the District Court and after return of the papers of the Bank guarantee by the District Court the petitioner is at liberty to present the same to the Bank and bank is at liberty to release the amount which was accepted by the Bank for the purpose of giving the bank guarantee. However, it is made clear that all this exercise shall be completed by the petitioner

within a period of two weeks and the amount shall be deposited by the petitioner within a period of two weeks.

6. Issuance of authenticated copy is expedited.

(S.B.MHASE J.)